

Application No. 10730167 (Docket: CNTR.2224-C1)  
37 CFR 1.111 Amendment dated 08/04/2007  
Reply to Office Action of 04/23/2007

### **REMARKS/ARGUMENTS**

In the Office Action, the Examiner noted that claims 1-27, 56-64, and 66-83 are pending in the application. The Examiner additionally stated that claims 1-27, 56-64, and 66-83 are rejected. By this communication, claims 1-27, 56, and 67 are amended. Hence, claims 1-27, 56-64, and 66-83 are pending in the application.

Applicant hereby requests further examination and reconsideration of the application, in view of the foregoing amendments.

### **Information Disclosure Statements**

The Examiner noted that the information disclosure statement filed 7/25/06 fails to comply with 37 CFR 1.98(a)(2), which requires *inter alia* a legible copy of each cited foreign patent document; specifically, no copy of the foreign patent CN 1431584A has been enclosed. The Examiner further pointed out that Applicant's indication that US Pre-Grant Publication 2003/0172252 is an English language equivalent does not obviate this requirement.

In reply, Applicant refers the Examiner to a teleconference conducted on 05/08/2007 with the undersigned practitioner, during which the Examiner remarked that the above-noted IDS submittal was acceptable and the noted reference would be considered as submitted. Applicant appreciates consideration of patent CN1431584A and will anticipate receipt of the signed Form 1449 with the next transmission from the Office.

The Examiner also stated that the information disclosure statements filed 311 1/06 and 6/4/06 fail to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each reference listed that is not in the English language. It was noted that they have been placed in the application file, but the particular references not in compliance (the Rechenberg reference [citation BB of the IDS of 311 1/06] and the Backhus reference [citation BC of the IDS of 6/4/06]) referred to therein have not been considered.

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In reply, Applicant notes that the Rechenberg reference was resubmitted in an information disclosure statement filed on 05/31/2007 along with a concise explanation of relevance. Applicant also notes that the Backhus reference was submitted in error, and the undersigned practitioner does not believe it to be material to prosecution of this application.

#### **In the Specification**

Applicant has amended the specification to secure a substantial correspondence between the claims amended herein and the remainder of the specification. No new matter is presented.

#### **In the Claims**

##### **Rejections Under 35 U.S.C. §112**

The Examiner rejected claim 67 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention, noting that claim 67 recites the limitation "said processor," however, there is insufficient antecedent basis for this limitation in the claim, as no processor was previously recited in the pertinent claims.

In reply, Applicant has amended claim 67 to recite "said microprocessor," which has antecedent basis in claim 56. Consequently, it is requested that the rejection of claim 67 be withdrawn.

##### **Rejections Under 35 U.S.C. §101**

The Examiner rejected claims 1-27 under 35 U.S.C. 102(b) because the claimed invention is directed to non-statutory subject matter, noting that the claims are directed to "an instruction for employment by a device," and that this is descriptive material per se and is not statutory. See *In re Warmerdam*, 33 F.3d at 1360, 31 USPQ2d at 1759. For example, the Examiner further stated that claim 1 recites limitations regarding the precise arrangement of data within the instruction (the opcode field and the repeat prefix field), and thus it could be construed to be non-functional descriptive material.

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In reply, Applicant has amended claim 1 to recite, among other elements and limitations, fetch logic, configured to fetch an instruction flow from memory for execution by a microprocessor, where the instruction flow includes the noted instruction. Applicant asserts that fetch logic and memory are indeed statutory subject matter and requests that the rejection of claims 1-27 be withdrawn.

### **Rejections Under 35 U.S.C. §102(e)**

The Examiner rejected claims 1-6, 11, 23-27, 56-60, and 77-83 under 35 U.S.C. 102(e) as being anticipated by Kessler et al., U.S. Patent 6,789,147 (hereinafter, Kessler).

Applicant respectfully traverses the Examiner's rejections.

Regarding claims 1 and 56, the Examiner noted that Kessler discloses an apparatus for performing cryptographic operations comprising a cryptographic instruction, received by logic within a circuit, wherein said cryptographic instruction prescribes one of the cryptographic operations (Figure 3); said cryptographic instruction comprising:

- an opcode field, configured to prescribe that the circuit accomplish the cryptographic operation as further specified within a control word stored in a memory (element 302 of Fig. 3; col. 5, lines 37-50); and
- a repeat prefix field, coupled to said opcode field, configured to indicate that the cryptographic operation prescribed by the cryptographic instruction is to be accomplished on a plurality of blocks of input data (element 310 of Fig.3; col. 5, line 50 - col. 6, line 10).

Applicant respectfully disagrees with the Examiner's characterization of claims 1 and 56 and of the teaching of Kessler for the following reasons. First, through col. 5, line 50, Kessler's invention is provided to offload a portion of the processing that the host processor must perform in order to perform the noted security operations.

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In contrast, Applicant's invention, as recited in amended claims 1 and 56, is directed towards performing cryptographic operations within a microprocessor, analogous to Kessler's host processor 202, where those operations are prescribed by a macro instruction that is programmed within an instruction flow that is fetched from memory by fetch logic in the microprocessor. Applicant has amended claims 1 and 56 to more clearly point out the aforementioned elements in contrast to the that which is taught by Kessler. Kessler does not teach fetch logic, configured to fetch an instruction flow from memory for execution by a microprocessor. Furthermore, Kessler does not teach that the instruction flow includes a cryptographic instruction that prescribes a cryptographic operation. Kessler furthermore does not teach or suggest that such an instruction be provided to allow his host processor to perform the noted security functions. This is because Kessler teaches that it is desirable to provide a co-processor to perform such functions.

In view of the above points, Applicant respectfully requests that the rejections of claims 1 and 56 be withdrawn.

With respect to claims 2-6, 11, 23-27, 57-60, and 77-83, these claims depend from claims 1 and 57 as appropriate, and add further limitations that are neither anticipated nor made obvious by Kessler. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of claims 2-6, 11, 23-27, 57-60, and 77-83.

**Rejections Under 35 U.S.C. §103(a)**

The Examiner rejected claims 7-10 and 61-64 under 35 U.S.C. 103(a) as being unpatentable over Kessler, as noted above, and further in view of "Applied Cryptography, 2<sup>nd</sup> Edition."

Applicant respectfully traverses the Examiner's rejections and notes that claims 7-10 and 61-64, depend from claims 1 and 56, respectively, and add further limitations over that subject matter which is argued above as being allowable over the prior art of record. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of claims 7-10 and 61-64.

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The Examiner also rejected claims 12 and 66 under 35 U.S.C. 103(a) as being unpatentable over Kessler. Applicant traverses and notes that claims 12 and 66 depend from claims 1 and 56, respectively, and add further limitations over that subject matter which is argued above as being allowable over the prior art of record. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of claims 12 and 66.

The Examiner additionally rejected claims 13-22 and 67-76 under 35 U.S.C. 103(a) as being unpatentable over Kessler and further in view of Johns-Vano et al. (U.S. Patent 6,026,490). Applicant respectfully traverses and notes that claims 13-22 and 67-76 depend from claims 1 and 56, respectively, and add further limitations over that subject matter which is argued above as being allowable over the prior art of record. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections of claims 13-22 and 67-76.

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### CONCLUSIONS

Applicant believes this to be a complete response to all of the issues raised in the instant office action and further submits, in view of the amendments and arguments advanced above, that claims 1-27, 56-64, and 66-83 are in condition for allowance. Reconsideration of the rejections is requested, and allowance of the claims is solicited.

Applicant also notes that any amendments made by way of this response, and the observations contained herein, are made solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent business Goals (PBG), 65 Fed. Reg. 54603 (September 8, 2000), and are furthermore made without prejudice to Applicant under this or any other jurisdictions. It is moreover asserted that insofar as any subject matter might otherwise be regarded as having been abandoned or effectively disclaimed by virtue of amendments made herein and/or incorporated in attachments submitted with this response, Applicants wishes to reserve the right and hereby provides notice of intent to restore such subject matter and/or file a continuation application in respect thereof.

Applicant earnestly requests that the Examiner contact the undersigned practitioner by telephone if the Examiner has any questions or suggestions concerning this amendment, the application, or allowance of any claims thereof.

I hereby certify under 37 CFR 1.8 that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on the date of signature shown below.
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Respectfully submitted,  
**HUFFMAN PATENT GROUP, LLC**

*/ Richard K. Huffman /*

By: \_\_\_\_\_

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*08 / 04 / 2007*

Date: \_\_\_\_\_